

# Lead Poisoning Prevention in Indiana



## Rental Properties and Lead-Based Paint: A Guide for Property Owners and Managers

**If you own or manage a rental property built before 1978, your building may have lead-based paint, and you have certain responsibilities under federal and state law. Here are some things you should know:**

### Legal Requirements for Rental Properties

- ◆ Rental property owners must follow EPA's Lead Disclosure Rule, which includes:
  - ⇒ Providing a copy of any reports dealing with lead-based paint or lead hazards to tenants, prior to signing or renewing a lease;
  - ⇒ If more than 2 square feet of paint are disturbed by maintenance staff or contractors, a written pre-renovation notice must be provided to occupants.
- ◆ If you receive HUD funding, such as Section 8, your contractors must follow HUD's special work practices and training requirements.
- ◆ For homes and child-occupied facilities built before 1960, Indiana law:
  - ⇒ Presumes that paint is lead-based paint;
  - ⇒ Prohibits the use of dangerous work practices such as dry-sanding, dry-scraping or burning paint unless special conditions apply; and
  - ⇒ Requires exterior cleanup of visible paint chips or painted debris within 48 hours after work is complete.

### Best Practices for Rental Properties

**Childhood lead poisoning is a serious disease affecting hundreds of Indiana children each year. Lead-based paint in the home is the most common cause of lead poisoning. As a landlord, you can protect the health of your tenants:**

- ◆ Know whether there is lead-based paint in your properties.
- ◆ Evaluate property with a visual assessment and interior lead dust sampling annually and after more than a minor amount of paint is disturbed.
- ◆ If you hear that a child of a resident may be lead-poisoned, quickly investigate the situation while respecting that family's privacy.

**Contact ISDH's Lead Program 317-233-1250**

## Lead Primer



## Categories of Lead Work

**Lead Abatement** is the permanent elimination of lead-based paint hazards from a home or building. **Lead Remediation** uses “interim control techniques” to eliminate the lead-based paint hazards, but does not permanently eliminate the paint. Interim control techniques are designed to last up to 20 years.

## Key References

- Indiana Regulations: 326 IAC 23 ([www.in.gov/legislative/iac/T03260/A00230.PDF?](http://www.in.gov/legislative/iac/T03260/A00230.PDF?))
- U.S. Environmental Protection Agency Regulations: 40 CFR Part 765 ([www.epa.gov/lead/](http://www.epa.gov/lead/))
- U.S. Environmental Protection Agency Renovation, Repair, and Painting Rule ([www.epa.gov/lead/pubs/renovation.htm](http://www.epa.gov/lead/pubs/renovation.htm))
- U.S. Department of Housing and Urban Development Regulations: 24 CFR Part 35 ([www.hud.gov/offices/lead/index.cfm](http://www.hud.gov/offices/lead/index.cfm))
- U.S. Occupational Safety and Health Administration: 29 CFR 1926.62 ([www.osha.gov/SLTC/lead/index.html](http://www.osha.gov/SLTC/lead/index.html))
- Environmental specialists on staff at state and local health departments provide excellent information on issues pertaining to lead poisoning.

## Key Contacts

- IN State Department of Health: [www.in.gov/isdh/19124.htm](http://www.in.gov/isdh/19124.htm) and 317-233-1250.
- IN Licensing Agency: [www.in.gov/pla/](http://www.in.gov/pla/)
- Lead-Safe Indiana Task Force and Improving Kids' Environment: [www.ikecoalition.org](http://www.ikecoalition.org) or 317-902-3610
- National Lead Information Center: (800) 424-LEAD (5323)
- ISDH Lead Hotline: 800-433-0746

*This document has been prepared by Janet McCabe and Lauren Stanisc of Improving Kids' Environment pursuant to a grant from the Indiana State Department of Health. IKE takes full responsibility for the materials presented. Contact IKE at [www.ikecoalition.org](http://www.ikecoalition.org) or 317-902-3610 for more information.*

*Special thanks to the Indiana State Department of Health for making this document possible.*

### What are the dangers of lead poisoning?

Severe childhood lead poisoning is uncommon in Indiana, but thousands of Hoosier children are poisoned by lower levels of lead that permanently damage the brain. This damage includes lowered IQ levels, a greater chance of learning disabilities and attention deficit disorders, and a tendency towards violent behavior. Indiana requires intervention by the local health department to protect children six years or younger when a child has more than 10 micrograms of lead in a deciliter of blood.

**How can I tell if a person is lead poisoned?** Only a blood test performed by a health professional will tell you. Since lead leaves the blood over time, you cannot easily tell whether a person was lead poisoned in the past.

**Why focus on children six or younger?** Because their bodies are still growing, children are at the highest risk. The body has difficulty telling the difference between lead and calcium. Lead in blood can get into the developing brain and permanently damage it. Pregnant woman can pass lead to a fetus. Adults and children over six can also be lead poisoned but it takes higher levels. Children under seven are the most vulnerable group.

**How many children are lead poisoned in Indiana?** Because testing is not required for all children, no one knows. National averages suggest that 1 in 100 children are lead poisoned. The state recommends that all children living or playing in property built before 1978 be tested. Race and income-levels are also factors. All children eligible for Medicaid must be tested.

**How do they get lead poisoned?** Lead paint dust, lead paint chips, and lead in soil are the primary sources of lead poisoning. Children playing on the floor get lead dust or contaminated soil on their toys, blankets, clothes and on their hands that they ingest. The lead dust may be invisible, and a tiny amount of lead dust can poison a child.

**Where does the lead come from?** Lead primarily comes from deteriorated lead-based paint, inside or outside the home. Lead-based paint on the exterior of the home may have contaminated the soil over the years. Inside, windows and doors are the most likely places to find lead-based paint because the paint was durable. Dust can be found everywhere. The only way to know for sure is to have it checked by a risk assessor or inspector licensed by the Indiana State Department of Health.

**Why 1978 and 1960?** The use of lead-based paint on residential property was prohibited after January 1, 1978. Indiana presumes paint in a home or child-occupied facility built before 1960 is lead-based paint.

## Before the Tenant Moves In...

### **Federal law mandates that renters be informed of the presence (or potential presence) of lead-based paint before they sign a lease or renewal**

Owners of property built before 1978 or their agents must provide the tenant with EPA's Lead Information pamphlet and the following in their leases:

- Lead Warning Statement;
- Description of known lead-based paint or lead hazards in home or a statement of no knowledge;
- Any additional information concerning known lead-based paint or lead hazards;
- List of reports or records provided to buyer or tenant. If no records available, state that fact;
- Statement by tenant affirming receipt of information;
- Signatures by lessor and their agents as well as tenant certifying accuracy of their required statements.



*HUD and EPA can issue fines of \$11,000 for each violation. The tenant can sue for treble damages and collect attorney and expert witness fees if successful in showing disclosure rules were not followed.. 42 USC § 4851 et seq. and 40 CFR 745.100.*



### **Lead Facts**

Each year, approximately 500 children in Indiana are diagnosed with elevated blood lead levels, about 1% of the number screened.

While housing is not the only source of lead poisoning, research shows that dust and paint chips from deteriorating paint in older homes is the leading cause.

In Indiana, more than 700,000 housing units were built before 1950 and have a high likelihood of lead paint.

Lead hazards result from peeling, chipping and deteriorating interior or exterior paint or disturbance of otherwise intact paint through renovation or maintenance activities.

## How Do You Know if a House Has Lead-Based Paint?

- Only a licensed lead paint risk assessor or inspector may legally determine the presence of lead-based paint by analyzing dust and paint chips.
- Lead swabs, available at home improvement and paint supply stores, can screen for lead-based paint, but are not foolproof or definitive.
- If the house was built before 1960, Indiana law assumes it has lead-based paint unless it has been inspected and determined to be lead-free.. IC 13-17-14-12.



## What Happens if a Child of a Tenant becomes Lead Poisoned?

⇒ State and local health agencies can check a child's blood for lead. If a child is found to be lead-poisoned, state regulations require that the local health department immediately conduct an environmental investigation of the child's environment to find the source of the lead and require the property owner remediate any hazards that are found. 410 IAC 29. HUD-funded properties are subject to similar federal requirements.

⇒ If lead hazards are found on the property, the lead hazards may also be a violation of the local housing code and of the lease pursuant to IC 32-31-8-5, which requires that a landlord deliver the rental premises to a tenant in a safe, clean, and habitable condition that complies with applicable health and housing codes.

⇒ If a state or local agency orders the permanent elimination of lead hazards, the work must be done as an *abatement* by licensed abatement contractors.

⇒ If you hear that a child of a resident may be lead poisoned, quickly investigate and have a risk assessment done by a licensed lead risk assessor.

## Pre-Renovation Notice

Any contractor who disturbs more than two square feet of interior paint in target housing must provide the owner and adult occupant of a rental unit with the EPA pamphlet *Renovate Right* and either send it by certified mail or get the owner and adult occupant to sign a written acknowledgement of receipt of the pamphlet. If your own employees do the work, you are responsible for this notification.

The pamphlet must be given before the work begins but not more than 60 days before. Certified mail must be sent 7 days before renovation begins.

If a common area is affected, tenants must be notified in writing of the location and dates of the work and that the EPA pamphlet is available. The pamphlet is available at [www.epa.gov/opptintr/lead/pubs/sbcomplianceguide.pdf](http://www.epa.gov/opptintr/lead/pubs/sbcomplianceguide.pdf).



### Lead-Safe Work Practices

The following work practices are safe:

- ♦ Wet methods to scrape and sand by misting surfaces before and during scraping and sanding.
- ♦ Mist before drilling and cutting to reduce dust creation and keep dust from becoming airborne and spreading beyond the work area. An alternative while working with electrical tools is the use of foam.
- ♦ Scoring paint before separating components helps prevent paint from chipping when a paint seal is broken.
- ♦ Use a heat gun set below 1100° F.
- ♦ Prying and pulling apart components and pulling nails creates less dust and fewer paint chips than pounding out components.
- ♦ If power tools that sand or grind are used, equip them with a HEPA vacuum attachment.



## Renovate Right—Know the Law and Protect the Building Occupants

Renovation creates dust, and dust can create lead hazards

### Make Sure Your Contractor Will Use Lead Safe Work Practices

Unless you know that your building has no lead-based paint, ask your contractor if they have been trained in Lead Safe Work Practices and what they will do to make sure the work is done safely. A good contractor will offer, or agree, to have a lead clearance exam performed after the job is done—the only sure way to know that no lead dust hazards remain.



### Prohibited Work Practices

The following techniques are very dangerous when applied to lead-based paint and prohibited in housing built before 1960:

- **Open flame burning or torching.**
- **Machine sanding or grinding** without high efficiency particulate air local exhaust control.
- **Abrasive blasting or sandblasting** without high efficiency particulate air local exhaust control.
- A **heat gun** that operates above 1100°F; or chars the paint.
- **Dry scraping**, except: in conjunction with a heat gun; or within one foot of an electrical outlet.
- **Dry sanding**, except within one foot of an electrical outlet.
- In a space that is not ventilated by the circulation of outside air, using a **volatile stripper** that is a hazardous chemical under 29 CFR 1910.1200.
- **Exterior Paint:** A person disturbing painted exterior surfaces may not allow visible paint chips or painted debris to remain on the soil, pavement, or other exterior horizontal surface for more than forty-eight hours after the surface activities are complete.

### Need more information or training?

- USEPA: [www.epa.gov/lead](http://www.epa.gov/lead)
- Indiana State Department of Health: <http://www.in.gov/isdh/19124.htm>
- Environmental Management Institute: [www.EnvtlMgmt.org](http://www.EnvtlMgmt.org) or 800-488-8842.
- *Lead-Based Paint—The Law in Indiana* available at [www.ikecoalition.org](http://www.ikecoalition.org)